

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

TOUCHCOM, INC. and TOUCHCOM  
TECHNOLOGIES, INC.,

Plaintiffs,

VS.

BERESKIN & PARR and  
H. SAMUEL FROST.

Defendants.

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No. 1:07-cv-00114-JCC-TCB

**NOTICE OF PLAINTIFF'S COUNTER-COUNTER-DESIGNATIONS  
TO DEFENDANTS' COUNTER-DESIGNATED DEPOSITION TESTIMONY**

Plaintiff Touchcom Technologies, Inc. (“Plaintiff”) hereby submits the following index of counter-counter-designations to the deposition testimony identified in Defendants’ Counter Deposition Designations (Docket No. 246). Plaintiff reserves the right to use any of the Defendants’ designations, counter-designations or counter-counter-designations at trial. Plaintiff reserves the right to decline to present any designated, counter-designated or counter-counter-designated testimony. Plaintiff further reserves the right to revise or withdraw any of its designations, counter-designations and counter-counter-designations and assert different or additional designations, counter-designations and counter-counter-designations in light of any Court ruling or as may be otherwise permitted by the Court.

By providing the following counter-counter-designations, Plaintiff does not admit to the admissibility of any deposition or arbitration testimony designated, counter-designated or

counter-counter-designated by Defendants. Plaintiff expressly reserves the right to object to Defendants' designations according to the schedule agreed to by the parties.

**Counter-Counter-Designations to Defendants' Counter-Designated Deposition Testimony**

<b>Witness</b>	<b>Deposition Date</b>	<b>Counter-Counter-Designations</b>
Bond, John Steven	10/25/2005	N/A <sup>1</sup>
Ellard, Jaired	10/18/2005	68:20-69:16, 74:17-20, 74:22-22, 74:24-75:11
Frost, H. Samuel	11/18/2005	21:24-22:6, 47:9-9
Frost, H. Samuel	5/27/2010	23:3-15, 40:2-5, 53:4-5, 53:22-54:19, 128:8-16
Martinez, Carlos	5/20/2010	18:16-19:4, 90:21-91:1
Olsson, Mats E.	6/3/2010	64:20-24, 68:15-69:22, 89:25-90:8, 91:23-92:13, 123:19-124:11
White, Rollie	7/28/2004	82:5-14
White, Rollie	8/10/2010	67:18-70:8, 77:20-78:1, 83:24-84:2, 87:1-22
Yienger, Daniel	6/29/2010	none

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<sup>1</sup> The parties identified a discrepancy in the page numbering of the Bond transcripts used by Plaintiff and Defendants, respectively, for their initial designations. The discrepancy has been resolved with all parties conforming their Bond designations/counter-designations to the PDF transcript provided by Defendants to Plaintiff on September 1, 2011. After reviewing the conformed Bond designations, Defendants notified Plaintiff by email on September 7, 2011 that they are no longer counter-designating any Bond deposition testimony. Therefore, Plaintiff makes no counter-counter-designations to the Bond deposition testimony.

Respectfully submitted this 9th day of September, 2011.

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**CERTIFICATE OF SERVICE**

I hereby certify that, on this date, September 9, 2011, I will electronically file the foregoing PLAINTIFF'S COUNTER-COUNTER-DESIGNATIONS TO DEFENDANTS' COUNTER-DESIGNATED DEPOSITION TESTIMONY with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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